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Rodney D. Miller

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ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

101 SOUTH TRYON STREET, SUITE 4000

CHARLOTTE, NC 28280-4000

EXAMINER

GRAHAM, CLEMENT B

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/779,973	<b>Applicant(s)</b> MILLER ET AL.	
	<b>Examiner</b> Clement B. Graham	<b>Art Unit</b> 3692	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-14, 16-21 and 23-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5, 7-14, 16-21 and 23-31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-5, 7-14, 16-21, 23-31 remained pending and claims 6, 15, 22 has been cancelled

#### **Claim Rejections - 35 USC § 101**

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 12, 19, 30, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Applicant's claims are directed to an algorithm. Specifically, claims recites "request adapter", "request processor" and "virtual processor" dynamic packageing", however these steps are mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, for example) and abstract ideas without a practical application are found to be non-statutory subject matter. Therefore, Applicant's claims are non-statutory as they do not produce a useful, concrete and tangible result.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The terms "dynamic packaging orchestrator" flexibility rules in claims , is a relative terms which renders the claim indefinite. The term typical is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention ...". For further examination, the examiner interprets the limitation in light of this 112, second rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7-14, 16-21, 23-31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker U.S Patent: 6, 553, 346 in view Ojha et al (Hereinafter Ojha U.S Patent 6, 598, 0261.

As per claims 1-3, Walker discloses a system for auctioning consumer demand to suppliers comprising:

a request adapter for receiving a first data set in a first protocol, converting the first data set to a second data set in a second intermediate protocol and then, converting the second data set to a third data set in a third protocol (see column 5 lines 25-67 and column 6-12 lines 1-65)

a request preprocessor (see column 9 lines 30-46) for receiving the third data set from the request adapter and filtering the third data set (see column 2-5 paragraph 0015-0053)

a virtual group processor(see column 9 lines 30-46) for receiving the third data set, which has been filtered by the request preprocessor and un-rejected, and creating at least one group, including the third data set and other data sets in the third protocol(see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular

product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 4, Walker discloses wherein the request preprocessor filters the third data set based on a set of elimination rules that eliminate or accept the travel request, based on a consumer's flexibility and the travel request availability. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 5, Walker discloses wherein if the third data set does not meet the elimination rules it is rejected. (see column 5 lines 25-67 and column 6-12 lines 1-65)

As per claim 7, Walker discloses wherein the DPO/CSE manages the at least one group by applying flexibility rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 8, Walker discloses wherein if the at least one group represents a plurality of products, the DPOICSE manages the at least one group by disassembling the plurality of products and re-assembling the plurality of products into one or more combinations of products before shopping for bids. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 9, Walker discloses wherein the DPOICSE shops for bids on the one or more combinations of products by submitting bid requests to suppliers and receiving one or more bids for the one or more combination of products. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 10 Walker discloses wherein the suppliers submit the one or more bids to the DPOICSE manually or automatically through proxy agents, based on proxy trading rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 11, Walker discloses wherein the DPO/CSE books the one or more combination of products based on event and availability information. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 12-14, Walker discloses a travel information system for auctioning consumer demand to suppliers comprising:

a request adapter for receiving a PNR from a distribution system and converting the PNR to a travel request (see column 5 lines 25-67 and column 6-12 lines 1-65)

a request preprocessor for receiving the travel request from the request adapter and filtering the travel request, based on a set of elimination rules. (see column 2-5 paragraph 0015-0053) a virtual group processor for receiving travel requests, filtered by the request preprocessor and un-rejected, and creating at least one group, including the travel requests and other travel requests see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular

product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging orchestrator and continuous shopping engine (DPO/CSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 16, Walker discloses wherein if the at least one group represents a plurality of products, the DPO/CSE manages the at least one group by organizing the plurality of products into one or more combinations of products before shopping for bids. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 17, Walker discloses wherein the DPO/CSE shops for bids on the one or more combinations of products by submitting bid requests to suppliers and receiving one or more bids for the one or more combination of products. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 18, Walker discloses wherein the suppliers submit the one or more bids to the DPO/CSE manually or automatically through proxy agents, based on proxy trading rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 19-21, Walker discloses a method for auctioning consumer demand to suppliers in a travel information network comprising the steps of transferring a PNR from a distribution system to a request adapter for conversion to a travel request; transferring the travel request from the request adapter to a request preprocessor, filtering the travel requests with the request preprocessor;

transferring the filtered travel requests that are un-rejected to a virtual group processor; forming at least one group, including the travel requests and other travel requests with the virtual group processor (see column 5 lines 25-67 and column 6-12 lines 1-65). , and transferring the at least one group from the virtual group (see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach processor to a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) that manages the at least one group shops for bids on at least one product represented in the at least one group, receives bids on the at least one product represented in the at least one group, and books the at least one product based on the received bids.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include processor to a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) that manages the at least one group shops for bids on at least one product represented in the at least one group, receives bids on the at least one product represented in the at least one group, and books the at least one product based on the



received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 23, Walker discloses wherein managing the at least one group further includes applying consumer and supplier profile rules to the travel request. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 24, Walker discloses wherein managing the at least one group includes disassembling a plurality of products and re-assembling the plurality of products into one or more combinations of products before shopping for bids. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 25, Walker discloses wherein receiving the one or more bids at the DPO/CSE further includes receiving bids from suppliers that have submitted the bids manually or automatically through proxy agents, based on proxy trading rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 26, Walker discloses wherein the step of booking the travel request includes acquiring the one or more combination of products based on event and availability information received by the DPO/CSE. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 27-29, Walker discloses a method for booking a travel request comprising: receiving the travel request; continuously shopping the travel request at a distribution system; reevaluating a price and the availability of the travel request offered at the distribution system to fulfill the travel request, and booking the travel request at the distribution system if it is determined that an appropriate price is offered at the distribution system and the travel request is available. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 30, Walker discloses a dynamic packaging orchestrator and continuous shopping engine (DPO/CSE) comprising:

a dynamic connection constructor module for receiving the one or more grouped requests and generating a list of alternate requests, based on a consumer's flexibility, and submitting the alternate requests to the dynamic packaging management module; and a bid management module for (see column 5 lines 25-67 and column 6-12 lines 1-65)

receiving the plurality of individual requests, the additional requests, and the alternate requests from the dynamic packaging management module, offering the plurality of individual requests, the additional request, and the alternate requests for bidding (see column 2-5 paragraph 0015-0053) receiving bids on the plurality of individual requests, the additional requests, and the alternate requests and determining whether one or more of the bids are acceptable, and booking one or more of the bids that were acceptable with a distribution system. (see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging management module for dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests and creating additional requests based on flexibility rules.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could

be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging management module for dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests and creating additional requests based on flexibility rules(see column 2-5 paragraph 0015-0053)taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 31, Walker discloses a method for providing item requests comprising:

receiving requests for items from at least one of a plurality of sources; processing the requests for items received in a standard format or converting the request for items received in other formats to a standard format (see column 5 lines 25-67 and column 6-12 lines 1-65)

eliminating the request for items that fail to meet a predetermined criteria; reorganizing the request for items into groups having the same or similar items;

offering the groups for bid to prospective suppliers (see column 5 lines 25-67 and column 6-12 lines 1-65) receiving a bid from at least one of the prospective suppliers that fulfill an item within one of the grouped request for items and repeatedly shopping at least one of the request for items at distribution system in pre determined time intervals until the at least one request is satisfied. (see column 5 lines 25-67 and column 6-12 lines 1-65).

### **Conclusion**

#### **Response to arguments**

6. Applicant's arguments filed 10/11/2006 has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims 1, 12, 19, 30, states " request preprocessor for receiving" request adapter for receiving" shopping engine for managing" group processor for receiving " module for dividing" module for receiving"

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

\*\*>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during

the administrative process." ).<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

Dec 5, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
